

RESOLUTION GRANTING THIRD ROUND SUBSTANTIVE CERTIFICATION #11-09

Rocky Hill Borough, Somerset County

WHEREAS, Rocky Hill Borough, Somerset County, petitioned the Council on Affordable Housing (COAH) on December 30, 2008 for substantive certification of a Housing Element and Fair Share Plan addressing its total 1987-2018 affordable housing obligation; and

WHEREAS, Rocky Hill Borough published notice of its petition on February 20, 2009 in the *Courier News*, which is a newspaper of general circulation within the county, pursuant to N.J.S.A. 52:27D-313 and N.J.A.C. 5:96-3.5; and

WHEREAS, no objections to the plan were received by COAH during the 45-day objection period, which ended April 16, 2009; and

WHEREAS, Rocky Hill Borough's fair share plan addresses a total 1987-2018 affordable housing obligation of 40 units, consisting of a 4-unit rehabilitation share, 25-unit prior round obligation and a 11-unit projected growth share obligation; and

WHEREAS, COAH staff has reviewed the Borough's Housing Element and Fair Share Plan; and

WHEREAS, Rocky Hill Borough proposes to address its 4-unit rehabilitation share with 4 rehabilitation credits; and

WHEREAS, the Borough proposes to address its 25-unit prior round obligation with four credits for the four-bedroom EDEN Acres Group Home; six credits and six rental bonuses for six bedrooms at the ARC of Somerset Group Home; and nine credits for a Regional Contribution Agreement with the City of New Brunswick; and

WHEREAS, Rocky Hill proposes to address its 11-unit projected growth share obligation with a ten-unit accessory apartment program and a one-bedroom addition to the EDEN Acres Group Home; and

WHEREAS, pursuant to N.J.A.C. 5:96-6.2(a)2, on April 24, 2009 COAH issued a Compliance Report (attached as Exhibit A and incorporated by reference herein) recommending approval of Rocky Hill Borough's petition for third round substantive certification; and

WHEREAS, there was a 14-day period to submit comments to the COAH Compliance Report pursuant to N.J.A.C. 5:96-6.2(b) and COAH received no comments; and

NOW THEREFORE BE IT RESOLVED that the Housing Element and Fair Share Plan submitted by Rocky Hill Borough comports to the standards set forth at N.J.S.A. 52:27D-314 and meets the criteria for third round substantive certification pursuant to N.J.A.C. 5:96-6.3; and

BE IT FURTHER RESOLVED that pursuant to N.J.A.C. 5:97-4.1(d), all credits will be verified and validated during monitoring subsequent to substantive certification pursuant to N.J.A.C. 5:96-11; and

BE IT FURTHER RESOLVED that pursuant to N.J.A.C. 5:96-6.2(a), after having reviewed and considered all of the above, COAH hereby grants third round substantive certification to Rocky Hill Borough; and

BE IT FURTHER RESOLVED that after receiving final substantive certification, pursuant to N.J.A.C. 5:96-6.3(e), Rocky Hill Borough shall, within 45 days of this grant of substantive certification, adopt all implementing fair share ordinances, enter into a contract with an administrative agent for the accessory apartment program, and submit to COAH an operating manual and adopted affirmative marketing plan for the proposed accessory apartment program; and

BE IT FURTHER RESOLVED that if Rocky Hill Borough fails to adopt its fair share ordinances or submit the operating manual and adopted affirmative marketing plan for the accessory apartment program in a timely manner, COAH's grant of substantive certification shall be void and of no force and effect; and

BE IT FURTHER RESOLVED that Rocky Hill shall submit all fair share ordinances to COAH upon adoption; and

BE IT FURTHER RESOLVED that Rocky Hill shall comply with COAH monitoring requirements as set forth in N.J.A.C. 5:96-11, including reporting Rocky Hill's actual growth pursuant to N.J.A.C. 5:97-2.5; and

BE IT FURTHER RESOLVED that pursuant to N.J.A.C. 5:96-10.1, COAH shall conduct biennial plan evaluations upon substantive certification of Rocky Hill's Housing Element and Fair Share Plan to verify that the construction or provision of affordable housing has been in

proportion to the actual residential growth and employment growth in the municipality and to determine that the mechanisms addressing the projected growth share obligation continue to present a realistic opportunity for the creation of affordable housing; and

BE IT FURTHER RESOLVED that if upon any biennial review the difference between the number of affordable units constructed or provided in Rocky Hill and the number of units required pursuant to N.J.A.C. 5:97-2.5 results in a pro-rated production shortage of 10 percent or greater, or the mechanisms addressing the projected growth share obligation no longer present a realistic opportunity for the creation of affordable housing, the Council may direct the municipality to amend its plan to address the shortfall; and

BE IT FURTHER RESOLVED that pursuant to N.J.A.C. 5:97-2.5(e), if the actual growth share obligation is less than the projected growth share obligation, Rocky Hill shall continue to provide a realistic opportunity for affordable housing to address the projected growth share; and

BE IT FURTHER RESOLVED that pursuant to N.J.A.C. 5:96-6.3(b), Rocky Hill's substantive certification shall remain in effect until December 30, 2018; and

BE IT FURTHER RESOLVED that any changes to the facts upon which this substantive certification is based or any deviations from the terms and conditions of this substantive certification which affect the ability of Rocky Hill Borough to provide for the realistic opportunity of its fair share of low and moderate income housing and which the Borough fails to remedy, may render this certification null and void.

I hereby certify that this resolution was
duly adopted by the Council on Affordable
Housing at its public meeting on May 14, 2009

A handwritten signature in cursive script, reading "René Reiss".

René Reiss, Secretary
Council on Affordable Housing

***Council on Affordable Housing
Compliance Report
April 20, 2009***

Municipality: Rocky Hill Borough
County: Somerset County

COAH Region: 3

Planning Area: 2

Special Resource Area: None

Housing Element and Fair Share Plan Adopted: 11/11/2008

Petition for 3rd Round Substantive Certification: 12/30/2008

Completeness Determination: 2/9/2009

Date of Publication: 2/20/2009

Objections Received: No

Petition Includes:

VLA: *No*

GPA: *No*

Waiver: *No*

Section: N/A

Date of Site Visit: *May 7, 2009*

History of Approvals:

	COAH	JOC	N/A
First Round:			X
Second Round:	1/3/2001		
Extended Certification:			X

Plan Preparer: *Susan C. Kimball, PP, Kimball & Kimball*

Municipal Housing Liaison: *Donna Griffiths, Borough Clerk*

Recommendation: Grant Substantive Certification

SUMMARY OF FAIR SHARE OBLIGATION

Rehabilitation Share	4
Prior Round Obligation	25
Projected Growth Share Obligation (Net)	11

ACTUAL GROWTH and GROWTH SHARE through September, 2008¹

Res Units (#)	Actual Res Growth Share	Jobs (#)	Actual Non-Res Growth Share	Actual TOTAL Growth Share
1	0 units	1	0 units	0 units

COMPLIANCE PLAN SUMMARY

Obligation	Credit/ Mechanism Type	# Units Completed	# Units Proposed	TOTAL
Rehabilitation: 4 units				
Credits	Post-April 1, 2000	4		4
Rehabilitation Subtotal				4
NEW CONSTRUCTION:				
Prior Round: 25 units				
Credits	Prior Cycle	---		---
	Post-1986	10		10
	RCA	9		9
Prior Round Bonus(es)	Rental	6		6
	Age-Restricted Rental	---		---
Prior Round Subtotal				25
Growth Share: 11 units				
Proposed Mechanism(s)	Accessory Apartment		10	10
	Supportive/Special Needs Housing		1	1
Growth Share Subtotal				11

¹ This growth share number does not take into account allowable exclusions permitted under N.J.A.C. 5:97-2.5; therefore, the actual growth share may vary.

I. HOUSING ELEMENT

Pursuant to N.J.S.A. 40:55D-28(b), the Housing Element is a required section of the Municipal Master Plan. The Housing Element must be designed to achieve the goal of access to affordable housing to meet existing and future housing needs, with special attention given to low- and moderate-income households. The housing needs analysis must include demographic information on existing and projected housing stock and employment characteristics, a quantification of low- and moderate-income housing need, and a consideration of the lands within the municipality that are most appropriate to accommodate such housing. Rocky Hill Borough's Housing Element includes sufficient information regarding housing stock, demographic and employment characteristics and population trends pursuant to N.J.S.A. 52:27D-310.

Under N.J.A.C. 5:97-2.1(b), the Housing Element must also set forth Rocky Hill Borough's fair share obligation, which is the sum of the rehabilitation share, the prior round obligation, and the growth share.

A. Rehabilitation Share

The rehabilitation share is the number of existing housing units within a municipality as of April 1, 2000, that are both deficient and occupied by households of low or moderate income. As indicated in Appendix B of N.J.A.C. 5:97, Rocky Hill Borough has a rehabilitation share of four units.

B. Prior Round Obligation

The prior round obligation is the cumulative 1987-1999 new construction obligation provided in Appendix C of N.J.A.C. 5:97. Rocky Hill Borough has a prior round obligation of 25.

C. Projected Growth Share

The projected growth share is initially calculated based on household (residential) and employment (non-residential) 2004-2018 projections. Pursuant to Appendix F of N.J.A.C. 5:97, Rocky Hill Borough has a residential projection of 25 units and a non-

residential projection of 97 jobs, which results in an initial projected growth share obligation of 11 affordable units.²

SUMMARY OF FAIR SHARE OBLIGATION

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Projected Growth Share Obligation (Net)	11

II. FAIR SHARE PLAN

A Fair Share Plan, as required under N.J.A.C. 5:97-3.1, describes the completed or proposed mechanisms and funding sources, if applicable, that will be utilized to specifically address a municipality's rehabilitation share, prior round obligation, and growth share obligation and includes the draft ordinances necessary to implement that plan. Affordable housing must be provided in direct proportion to the growth share obligation generated by the actual growth.

Rocky Hill Borough's Fair Share Plan, and the supporting documentation incorporated by reference therein, addresses the requirements of N.J.A.C. 5:97-3.1 as follows:

A. Plan to Address Rehabilitation Share

Rehabilitation Share Credits

Rocky Hill Borough has submitted documentation for 8 units rehabilitated subsequent to April 1, 2000, through the Somerset County Rehabilitation Program. Rocky Hill is participating in the program at least through 2009, and the County expects to rehabilitate at least one additional unit in the Borough. In accordance with N.J.A.C. 5:97-4.1(d), all credits will be verified and validated during monitoring subsequent to substantive certification pursuant to N.J.A.C. 5:96-11.

² Pursuant to N.J.A.C. 5:97-2.2(d), Rocky Hill's residential projection of 25 is divided by 5 to yield 5 units and the non-residential projection of 97 jobs is divided by 16 to yield 6 units. Rocky Hill's total projected growth share is therefore 11 units (5 + 6).

Rehabilitation Credits

Rehabilitation Program	# Credits
Somerset Co. Rehabilitation Program	4
TOTAL	4

B. Plan to Address Prior Round Obligation

Prior Round Obligation Credits

Rocky Hill Borough is addressing the Prior Round Obligation with 25 post-1986 credits. In accordance with N.J.A.C. 5:97-4.1(d), all credits will be verified and validated during monitoring subsequent to substantive certification pursuant to N.J.A.C. 5:96-11.

Post-1986 Credits

Project/Development Name	Year Built or Approved	Type of Affordable Unit	# Units/Bedrooms	Bonus Type	# Bonuses	Total Units/Bedrooms + Bonuses
EDEN Acres	1996	Alternative Living	4	---	---	4
ARC of Somerset	2002	Alternative Living	6	Rental	6	12
New Brunswick RCA	2001	Rehabilitation Project	9	---	---	9
TOTALS			19		6	25
TOTALS						25

Proposed Affordable Housing Mechanisms

Rocky Hill Borough is relying on credits and therefore is not proposing any additional affordable housing mechanisms to address its Prior Round Obligation.

Prior Round Obligation Parameters

Rocky Hill Borough has satisfied the applicable Prior Round parameters as follows:

Prior Round Rental Obligation:³ 6 Units

Development/Project Name	Type of Affordable Unit	# Units
ARC of Somerset	Alternative Living	6
EDEN Acres	Alternative Living	4
TOTAL		10

Prior Round Age-Restricted Maximum⁴ : 4 Units

Development/Project Name	Type of Affordable Unit	# Units
N/A	N/A	N/A
TOTAL		N/A

Regional Contribution Agreement (RCA) Maximum⁵: 13 Units

Receiving Municipality	Type of Affordable Unit	# Units
New Brunswick	Rehabilitation Project	9
TOTAL		9

³ Rental Obligation: N.J.A.C. 5:97-3.10(b)1 → $.25(\text{Prior Rd Obligation} - \text{Prior Cycle Credits}) = .25(25 - 0) = 6.25$ or 6

⁴ Age-Restricted Maximum: N.J.A.C. 5:97-3.10(c)1 → $.25(\text{Prior Rd Obligation} + \text{Rehab Share} - \text{Prior Cycle Credits} - \text{Rehab Credits} - \text{Transferred RCAs addressing PRO}) = .25(25 + 4 - 0 - 3 - 9) = .25(17) = 4.25$ or 4

⁵ RCA Maximum: N.J.A.C. 5:97-3.10(d) → $.5(\text{Prior Rd Obligation} + \text{Rehab Share} - \text{Prior Cycle Credits} - \text{Rehab Credits}) = .5(25 + 4 - 0 - 3) = .5(26) = 13$

Prior Round Rental Bonus Maximum⁶: 6 Units

Development/Project Name	Type of Bonus	# Bonuses
ARC of Somerset	Alternative Living	6
TOTAL		6

C. Plan to Address Projected Growth Share

Growth Share Obligation Credits

Rocky Hill Borough's Housing Element and Fair Share Plan does not include any growth share obligation credits.

Proposed Affordable Housing Mechanisms

Rocky Hill proposes to address the Borough's 11-unit Growth Share Obligation through the following mechanisms:

Accessory Apartment Program

Rocky Hill Borough will utilize an Accessory Apartment Program to address 10 units of its projected Growth Share Obligation. The Borough's housing stock, consisting of large historic homes at relatively low densities, is conducive to the creation of accessory apartments. Many also have detached garages that could be converted or enlarged.

The accessory apartment ordinance permits accessory apartments in the R-1 and R-2 zones, and affordability controls in the form of a deed restriction are required for not less than 10 years. There is no limitation on the number of bedrooms, but living space is limited to 1,200 square feet. According to the Borough Engineer, there is adequate water and sewer capacity to accommodate 10 accessory apartments, and there is no requirement to construct a separate utility line provided the property is already served and the location of the apartment is such that it does not require a separate connection.

⁶ No rental bonuses shall be granted for rental units in excess of the prior round rental obligation, therefore, PR Rental Bonus Maximum = PR Rental Obligation

The Borough intends to provide subsidies to participating homeowners in the amount of \$20,000 per unit for moderate-income units and \$25,000 for low-income units, plus administrative funding, for a projected total cost of approximately \$275,000. The Borough will contract with an experienced consultant to administer the program, including the preparation of an operating manual and affirmative marketing plan required by COAH. A draft RFP for the administrative agent was submitted by the Borough. The Borough intends to enter into a contract for services within 45 days of substantive certification. Projected development fee revenue provides a source of funding for the program, and the Borough has adopted a resolution committing to make up for any shortfall in funding through municipal appropriations or bonding.

It should be noted that Kevin D. Walsh, on behalf of Fair Share Housing Center (FSHC), submitted a letter dated April 6, 2009 (subsequently corrected and resubmitted on April 9, 2009) commenting on Rocky Hill Borough's Fair Share Plan, with specific reference to its proposed Accessory Apartment Program. FSHC's comments and COAH's response are included under Section IV of this report. **[10 family rental units]**

Supportive & Special Needs Housing

Rocky Hill Borough will rely on a one-bedroom addition to EDEN Acres, an existing group home, to address the remainder of its projected Growth Share Obligation as well as its one-unit very low-income housing requirement. As evidenced by a letter dated October 29, 2008, from Thomas McCool, President and CEO of The Eden Family of Services, the Borough is cooperating with the owner to promote the construction of an additional bedroom, or if an addition is not feasible, the owner has an interest in establishing another group home within the Borough for persons with special needs. In accordance with N.J.A.C. 5:97-6.10(e), Rocky Hill has submitted an implementation schedule for this proposed expansion, which anticipates completion in 2012. **[1 supportive and special needs bedroom]**

Proposed Growth Share Affordable Housing Mechanisms

Type/Name of Affordable Housing Mechanism	Type of Affordable Unit	# Units/Bedrooms	Bonus Type	# Bonuses	Total Units/Bedrooms + Bonuses
Accessory Apartment Program	Family Rental	10	---	---	10
Supportive and Special Needs Housing	Rental	1	---	---	1
TOTALS		11		---	11

Growth Share Parameters

Rocky Hill Borough has satisfied the applicable Growth Share parameters as follows:

Growth Share Rental Obligation:⁷ 3 Units

Development/Project Name	Type of Affordable Unit	# Units
Accessory Apartment Program	Family Rental	10
EDEN Acres- Addition	Rental	1
TOTAL		11

Growth Share Family Rental Requirement⁸ : 2 Units

Development/Project Name	Type of Affordable Unit	# Units
Accessory Apartment Program	Family Rental	10
TOTAL		10

⁷ Projected Growth Share Rental Obligation: N.J.A.C. 5:97-3.10(b)3 → .25(Projected Growth Share) or .25(11)= 2.75 or 3 units

⁸ Projected Growth Share Family Rental Requirement: N.J.A.C. 5:97-3.10(b)3 → .5(Projected Growth Share Rental Requirement) or .5(3)= 1.5 or 2 units

Growth Share Minimum Family Requirement⁹ : 6 Units

Development/Project Name	Type of Affordable Unit	# Units
Accessory Apartment Program	Family Rental	10
TOTAL		10

Very Low Income Minimum Requirement¹⁰ : 1 Unit

Development/Project Name	Type of Affordable Unit	# Units
EDEN Acres-Addition	Rental	1
TOTAL		1

Age-Restricted Maximum¹¹ : 2 Units

Development/Project Name	Type of Affordable Unit	# Units
N/A	N/A	---
TOTAL		---

Bonus Maximum¹²: 2 Bonuses

Development/Project Name	Type of Bonus	# Bonuses
N/A	N/A	---
TOTAL		---

Actual Growth Share Obligation

The actual growth share obligation will be based on permanent certificates of occupancy issued within the municipality for market-rate residential units and newly constructed or expanded non-residential developments in accordance with Appendix D of N.J.A.C. 5:97. At plan evaluation review pursuant to N.J.A.C. 5:96-10, COAH will

⁹ Projected Growth Share Family Requirement: N.J.A.C. 5:97-3.9 → .5(Units Addressing the Growth Share Obligation) or .5(11) = 5.5 or 6 units

¹⁰ Growth Share Very Low Income Requirement: P.L.2008, c.46 → .13(Projected Growth Share Obligation) or .13(11) = 1.43 or 1 unit

¹¹ Projected Growth Share Age Restricted Maximum: N.J.A.C. 5:97-3.10(c).2 → .25(Projected Growth Share) or .25(11)= 2.75 or 3 units

¹² Projected Bonus Maximum: N.J.A.C. 5:97-3.20(b) → .25(Projected Growth Share) or .25(11)= 2.75 or 2 units

compare the actual growth share obligation with the actual number of affordable units constructed.

The New Jersey Department of Community Affairs (NJ DCA) *Construction Reporter* indicates that between January 1, 2004 and September 2008, Rocky Hill Borough issued certificates of occupancy for one housing unit and for the nonresidential square footage equivalent of one job, yielding an actual growth share obligation through September 30, 2008, of 0 affordable units.¹³

D. Summary of Plan to Address Fair Share Obligation

REHABILITATION SHARE SUMMARY

Rehabilitation Share: 4 Units

Program Name	# Units
Somerset County Rehabilitation Program	4
TOTAL	4

PRIOR ROUND SUMMARY

Prior Round Obligation: 25 Units

	Name of Mechanism	# Units/ Bedrooms	Bonus Type	# Bonuses	Total Units/Bedrooms + Bonuses
Post-1986 Credits	RCA	9	---	---	9
	Alternative Living	4	---	---	4
	Alternative Living	6	Rental	6	12
Subtotal		19		6	
TOTAL					25

¹³ The number of residential COs (1) is divided by 5 to yield .2 units and the number of jobs (1) is divided by 16 to yield .06 units. Rocky Hill Borough's total projected growth share is therefore .26 or 0 units (.2 + .06). **Note:** This number does not take into account allowable exclusions permitted under N.J.A.C. 5:97-2.4; therefore, the actual growth share may vary.

GROWTH SHARE SUMMARY

Projected Growth Share Obligation: 11 Units

	Name of Mechanism	# Units/ Bedrooms	Bonus Type	# Bonuses	Total Units/Bedrooms + Bonuses
Proposed Mechanisms	Accessory Apartment Program	10	---	---	10
	Special Needs Housing	1	---	---	1
Subtotal		11		---	
TOTAL					11

III. FAIR SHARE DOCUMENT REVIEW

A. Development Fee Ordinance

Rocky Hill Borough's certified plan included a development fee ordinance that was approved by COAH on November 4, 1998 and adopted by the Rocky Hill Borough on September 21, 1998. COAH granted Rocky Hill Borough approval of an amendment to its development fee ordinance on October 24, 2006 which was adopted by the municipality on December 18, 2006. Rocky Hill Borough submitted an amended development fee ordinance for COAH's review and approval with its third round petition. The amended development fee ordinance will be reviewed by COAH in a separate report.

B. Third Round Spending Plan

Rocky Hill Borough prior round spending plan was approved by COAH on January 3, 2001. A revised third round spending plan was submitted by Rocky Hill Borough with the municipality's third round petition for COAH's review and approval. The spending plan will be reviewed by COAH in a separate report.

C. Affordable Housing Ordinance/Affordable Housing Administration

Rocky Hill Borough has submitted a revised draft affordable housing ordinance that comports with the requirements of the Uniform Housing Affordability Controls (UHAC), N.J.A.C. 5:80-26.1 et seq., which was amended on December 20, 2004. The draft proposed ordinance has also been amended to include compliance with the barrier free subcode of the State Uniform Construction Code Act (N.J.S.A. 52:27D-119 et seq.)

and the accessibility requirements of N.J.S.A. 52:27D-123.15. The draft ordinance must be adopted within 45 days of COAH's grant of substantive certification and submitted to COAH immediately upon adoption.

A draft Affordable Housing Ordinance that includes provisions establishing the position of a municipal housing liaison was submitted by the Borough with its petition and must be adopted within 45 days of substantive certification. Rocky Hill adopted a resolution appointing the Borough Clerk, Donna Griffiths, as municipal housing liaison on October 15, 2007.

Rocky Hill Borough is responsible for the continued re-sale and re-rental of existing affordable units and the initial sale and rental of newly constructed affordable units within the municipality and must identify an experienced administrative entity for that purpose by the contract, agreement or letter. Rocky Hill has submitted a draft Request for Proposals (RFP) for the implementation and administration of its proposed accessory apartment program. The RFP indicates that the program administrative agent must commit to utilizing COAH's model operating manual for the accessory apartment program required pursuant to N.J.A.C. 5:80-26.14(b). This operating manual must be submitted to COAH within 45 days of substantive certification.

D. Affirmative Marketing Plan

Rocky Hill Borough must provide an affirmative marketing plan that comports with the requirements of the Uniform Housing Affordability Controls N.J.A.C.5:80-26.1 *et seq* and ensures the units in the Rocky Hill Borough 1987-2018 Fair Share Plan and all future affordable housing units will be affirmatively marketed to the region upon initial sale/rental and re-sale/re-rental. As noted above, Rocky Hill Borough has submitted a draft RFP regarding its accessory apartment program. The RFP requires the administrative agent to develop an affirmative marketing plan consistent with COAH's model. Once approved by COAH, the affirmative marketing plan must be adopted by resolution by the municipality within 45 days of COAH's grant of substantive certification and submitted to COAH.

IV. COMMENTS

Kevin D. Walsh, on behalf of Fair Share Housing Center (FSHC), submitted a letter dated April 6, 2009 (subsequently corrected and resubmitted on April 9, 2009) commenting on Rocky Hill Borough's Fair Share Plan. FSHC states that the letter is not intended as an objection to the Borough's plan pursuant to N.J.A.C. 5:96-4.1; however FSHC does express concerns regarding the use of a ten-unit accessory apartment program, along with one special needs unit, to address its projected growth share obligation of 11 units. According to FSHC, the use of the accessory apartment program "may result in the Borough's failing to satisfy the COAH 50 percent family minimum, much less provide the 10 family units the Borough projects."

In response to FSHC's comment, COAH notes that a ten-unit accessory apartment program is an allowable affordable housing mechanism under N.J.A.C. 5:97-6.8 and may be used to address the Borough's family obligation pursuant to N.J.A.C. 5:97-3.9. In addition, as pointed out by FSHC, Rocky Hill Borough intends the accessory apartments for family occupancy, and the proposed accessory apartment ordinance does not limit the number of bedrooms per unit. Consequently, COAH believes Rocky Hill's Fair Share Plan provides a realistic opportunity for family housing and is consistent with COAH's third round rules.

V. MONITORING

Rocky Hill Borough must comply with COAH monitoring requirements as set forth in N.J.A.C. 5:96-11, including reporting the municipality's actual growth pursuant to N.J.A.C. 5:97-2.5. Pursuant to N.J.A.C. 5:96-10.1, COAH will conduct biennial plan evaluations upon substantive certification of Rocky Hill Borough Housing Element and Fair Share Plan. The purpose of the plan evaluation is to verify that the construction or provision of affordable housing has been in proportion to the actual residential growth and employment growth in the municipality and to determine that the mechanisms addressing the projected growth share obligation continue to present a realistic opportunity for the creation of affordable housing. If upon any biennial review the

difference between the number of affordable units constructed or provided in Rocky Hill Borough and the number of units required pursuant to N.J.A.C. 5:97-2.5 results in a pro-rated production shortage of 10 percent or greater, the Borough is not adhering to its implementation schedule pursuant to N.J.A.C. 5:97-3.2(a)4, or the mechanisms addressing the projected growth share obligation no longer present a realistic opportunity for the creation of affordable housing, the Council may direct the municipality to amend its plan to address the shortfall.

VI. RECOMMENDATION

COAH staff recommends that Rocky Hill Borough be granted third round substantive certification. Rocky Hill Borough must adopt all necessary implementing ordinances within 45 days of the grant of substantive certification and submit certified copies of the adopted ordinances to COAH within seven days of the adoption. Also within 45 days of the grant of substantive certification, the Borough must enter into a contract with an administrative agent for the accessory apartment program and submit to COAH a program operating manual and affirmative marketing plan for the accessory apartment program.